

EXHIBIT A (PROPOSED CLAIM CONSTRUCTIONS)

No.	Term or Claim Element	Associated Claim(s)	Parties' Agreed Construction	Plaintiff's Proposed Construction	Defendant's Proposed Construction
1	"recording"	'219 Patent Claims 1 and 3		<p>No construction necessary (plain language)</p> <p>But if the court finds this term requires construction, then it should be construed as follows:</p> <p>capturing and storing</p> <p><u>Intrinsic Evidence</u> <u>Specification:</u> Col. 1, lns 6-10, 13-16, 25-29 Col. 2, lns 18-21, 22-25 Col. 3, lns 1, 6-12 Col. 4, ln 4, 9-13 Col. 5, ln 8-15, 29-34, 58-62 Col. 6, ln 6-9, 13-21, 33-45, 55-67 Col. 7, ln 7-13, 18-31, 43-52 Col. 8, ln 46-49 Col. 9, ln 19-24, 27-43, 54-55, 60-69 Col. 10, ln 26-28</p> <p><u>File History:</u> March 28, 2002 BPAI Decision on Appeal at 2,5</p> <p>January 5, 1999 BPAI Examiner's Answer at 5,7,9,10,11,12,14,15</p>	<p>capturing and storing a series of images</p> <p><u>Intrinsic Evidence</u> <u>Specification:</u> Abstract; 1:6-10; 1:40-53; 2:23-26; 2:28-33; 3:1-6; 3:47-52; 3:56-60;</p>

No.	Term or Claim Element	Associated Claim(s)	Parties' Agreed Construction	Plaintiff's Proposed Construction	Defendant's Proposed Construction
				<p>October 13, 1998 Appellant's Appeal Brief at 3,5,8,12,13, Appendix</p> <p>April 13, 1998 Applicant's Response to January 8, 1998 Office Action/Non-Final Rejection at 3,5</p> <p>January 8, 1998 Office Action/Non-Final Rejection at 6,10,11,12,13</p> <p>September 8, 1997 Applicant's Response to May 1, 1997 Office Action/Non-Final Rejection at 3,5,7,8,9</p> <p>May 1, 1997 Office Action/Non-Final Rejection at 7,8,9,10,11,12</p> <p>February 18, 1997 Applicant's Response to November 14, 1996 Office Action at 1,3,4,5,7,9,10</p> <p>November 14, 1996 Office Action/Non-Final Rejection at 2,3,4,6,7,8,9,10</p> <p><u>Extrinsic Evidence</u> None</p>	

No.	Term or Claim Element	Associated Claim(s)	Parties' Agreed Construction	Plaintiff's Proposed Construction	Defendant's Proposed Construction
2	"video program"	'219 Patent Claims 1 and 3 '239 Patent Claim 4		<p>a sequential set of images which form a moving picture</p> <p><u>'219 PATENT Intrinsic Evidence</u> <u>Specification:</u> Abstract Col. 1, ln 51 Col. 2, lns 5,10,28, and 48 Col. 3, lns 1-6 and 47 Col. 4, ln 11 Col. 8, ln 19</p> <p><u>File History:</u> March 28, 2002 BPAI Decision on Appeal at 2,3,4</p> <p>January 5, 1999 BPAI Examiner's Answer at 5,6,8,9,10,11,12,13,14,15</p> <p>October 13, 1998 Appellant's Appeal Brief at 2,3,4,5,6,9,10,12, Appendix</p> <p>June 23, 1998 Office Action/Final Rejection at 3,4</p> <p>April 13, 1998 Applicant's Response to January 8, 1998 Office Action/Non-Final Rejection at 1,3,5</p>	<p>sequential set of images of previously recorded video material</p> <p><u>'219 Patent Intrinsic Evidence</u> <u>Specification:</u> Abstract; 1:50-61; 2:28-34; 3:47-52; 10:31-37</p> <p><u>'239 Patent Intrinsic Evidence</u> <u>Specification:</u> Abstract; 1:59-64; 2:35-40; 3:53-58; 10:31-37</p>

No.	Term or Claim Element	Associated Claim(s)	Parties' Agreed Construction	Plaintiff's Proposed Construction	Defendant's Proposed Construction
				<p>January 8, 1998 Office Action/Non-Final Rejection at 4,7,11,12</p> <p>September 8, 1997 Applicant's Response to May 1, 1997 Office Action/Non-Final Rejection at 1,2,5,6,7</p> <p>May 1, 1997 Office Action/Non-Final Rejection at 3,4,5,7,8,9,12,13</p> <p>February 18, 1997 Applicant's Response to November 14, 1996 Office Action at 3,5,8</p> <p>November 14, 1996 Office Action/Non-Final Rejection at 2,3,4,7</p> <p><u>Extrinsic Evidence</u> None</p> <p><u>'239 PATENT</u> <u>Intrinsic Evidence</u> <u>Specification:</u> Abstract Col. 1, lns 42-45 and 59-64 Col. 2, lns 12-20 and 53-58 Col. 3, lns 8-13 and 53-58</p>	

No.	Term or Claim Element	Associated Claim(s)	Parties' Agreed Construction	Plaintiff's Proposed Construction	Defendant's Proposed Construction
				<p>Col. 4, lns 15-18 and 56-60 Col. 11, lns 66 to Col. 12, ln 3</p> <p><u>File History:</u> January 5, 2012 Applicant's Response to September 6, 2011 Office Action/Non-Final Rejection at 2,4,5,6,7,8</p> <p>September 6, 2011 Office Action/Non-Final Rejection at 2,4,5,6,7,8</p> <p>June 9, 2011 Applicant's Response to February 17, 2011 Office Action/Non-Final Rejection at 2,3,4,5,6,7,8</p> <p>February 17, 2011 Office Action/Non-Final Rejection at 2,4,5,6,7</p> <p>December 6, 2010 Applicant's Response to August 5, 2010 Office Action/Non-Final Rejection at 2,3,4,5,6,7</p> <p>August 5, 2010 Office Action/Non-Final Rejection at 2,3,5,6,7,9,10</p> <p>May 7, 2010 Applicant's Response to</p>	

No.	Term or Claim Element	Associated Claim(s)	Parties' Agreed Construction	Plaintiff's Proposed Construction	Defendant's Proposed Construction
				<p>January 22, 2010 Office Action/Non-Final Rejection at 2,3,5,6,7,8,9,13,15</p> <p>January 22, 2010 Office Action/Non-Final Rejection at 2,3,4,7,8,9,10</p> <p>October 9, 2009 Applicant's Response to June 9, 2009 Office Action/Non-Final Rejection at 2,3,4,7,11,13,14,15,16</p> <p>June 9, 2009 Office Action/Non-Final Rejection at 2,3,4</p> <p>March 18, 2009 Applicant's Response to December 23, 2008 Office Action/Non-Final Rejection at 2,3,4,5,6,8,9,11</p> <p>December 23, 2008 Office Action/Non-Final Rejection at 4,5,6</p> <p>August 29, 2008 Applicant's Response to May 1, 2008 Office Action/Non-Final Rejection at 2,3,4,5,7</p> <p>May 1, 2008 Office Action/Non-Final Rejection at 3,4,5</p>	

No.	Term or Claim Element	Associated Claim(s)	Parties' Agreed Construction	Plaintiff's Proposed Construction	Defendant's Proposed Construction
				<p>February 4, 2008 Appellant's Appeal Brief at 2,3,5,7</p> <p>October 1, 2007 Office Action/Final Rejection at 2,3,4,5,6</p> <p>July 23, 2007 Response to February 23, 2007 Office Action/Non-Final Rejection at 2,3,5</p> <p>February 23, 2007 Office Action/Non-Final Rejection at 2,3,4,5</p> <p>April 16, 2003 Utility Patent Application Transmittal at 2,3,4,5,6,7,12,18,20,21,22,23</p> <p><u>Extrinsic Evidence</u> None</p>	
3	"separately storing"	<p>'219 Patent Claims 1 and 3</p> <p>'239 Patent Claim 4</p>		<p>No construction necessary (plain language)</p> <p>But if the court finds this term requires construction, then it should be construed as follows:</p> <p>saving to a different region of a medium or to a separate medium</p>	<p>storing a copy in a different location</p> <p><u>Intrinsic Evidence</u> 1:44-55; 4:2-8; '219 Reexamination, Ex Parte Reexamination Examiner Interview Summary of March 15, 2011 Dated</p>

No.	Term or Claim Element	Associated Claim(s)	Parties' Agreed Construction	Plaintiff's Proposed Construction	Defendant's Proposed Construction
				<p><u>'219 PATENT</u> <u>Intrinsic Evidence</u> <u>Specification:</u> Col. 1, lns 43-54 Col. 2, lns 4-6 Col. 9, lns 49-53</p> <p><u>File History:</u> March 28, 2002 BPAI Decision on Appeal at 3,4 January 5, 1999 BPAI Examiner's Answer at 8,11 October 13, 1998 Appellant's Appeal Brief at 5, Appendix June 23, 1998 Office Action/Final Rejection at 4,12 November 14, 1996 Office Action/Non-Final Rejection at 4</p> <p><u>Extrinsic Evidence</u> None</p> <p><u>'239 PATENT</u> <u>Intrinsic Evidence</u> <u>Specification:</u></p>	<p>April 21, 2011.</p> <p>'219 Reexamination, Amendments and Remarks in Response Dated April 1, 2011 to Office Action Dated February 7, 2011 at p. 8.</p> <p>'219 Reexamination, Patent Owner Statement of the Interview Under 37 C.F.R. § 1.560 Dated April 1, 2011 at pp. 1, 2.</p> <p>'219 Reexamination, Amendments and Remarks in Response to Office Action Dated February 7, 2011 at pp. 8, 9.</p> <p>'219 File History, Amendment and Remarks Dated September 8, 1997 to Office Action Dated May 1, 1997 at p. 4.</p> <p>'239 File History, Response dated June 9, 2011 to Non-Final Rejection dated 2/17/2011 at p. 9</p>

No.	Term or Claim Element	Associated Claim(s)	Parties' Agreed Construction	Plaintiff's Proposed Construction	Defendant's Proposed Construction
				<p>Col. 1, lns 53-64 Col. 2, lns 16-20</p> <p><u>File History:</u> January 5, 2012 Applicant's Response to September 6, 2011 Office Action/Non-Final Rejection at 2,3,4,5,6,7,9,10,11</p> <p>September 6, 2011 Office Action/Non-Final Rejection at 3,4,5,6,7</p> <p>June 9, 2011 Applicant's Response to February 17, 2011 Office Action/Non-Final Rejection at 4,5,7,8,9</p> <p>February 17, 2011 Office Action/Non-Final Rejection at 4,5,6</p> <p>December 6, 2010 Applicant's Response to August 5, 2010 Office Action/Non-Final Rejection at 3,4,5,6,9</p> <p>August 5, 2010 Office Action/Non-Final Rejection at 5,6,7,9,10</p> <p>May 7, 2010 Applicant's Response to</p>	

No.	Term or Claim Element	Associated Claim(s)	Parties' Agreed Construction	Plaintiff's Proposed Construction	Defendant's Proposed Construction
				<p>January 22, 2010 Office Action/Non-Final Rejection at 2,5,6,7,8,9,15</p> <p>January 22, 2010 Office Action/Non-Final Rejection at 7,8,9</p> <p>October 9, 2009 Applicant's Response to June 9, 2009 Office Action/Non-Final Rejection at 2,7</p> <p>June 9, 2009 Office Action/Non-Final Rejection at 2,3,4</p> <p>March 18, 2009 Applicant's Response to December 23, 2008 Office Action/Non-Final Rejection at 2,3,6,8,9,11,12</p> <p>December 23, 2008 Office Action/Non-Final Rejection at 4,5</p> <p>August 29, 2008 Applicant's Response to May 1, 2008 Office Action/Non-Final Rejection at 2,3,4,7</p> <p>May 1, 2008 Office Action/Non-Final Rejection at 3,4,5</p> <p>February 4, 2008 Appellant's Appeal</p>	

No.	Term or Claim Element	Associated Claim(s)	Parties' Agreed Construction	Plaintiff's Proposed Construction	Defendant's Proposed Construction
				<p>Brief at 2,3,5,6,7</p> <p>October 1, 2007 Office Action/Final Rejection at 2,3,4,5,6</p> <p>July 23, 2007 Response to February 23, 2007 Office Action/Non-Final Rejection at 2,4</p> <p>February 23, 2007 Office Action/Non-Final Rejection at 2,3,4,5</p> <p>April 16, 2003 Utility Patent Application Transmittal at 2,3,6,15,20,22</p> <p><u>Extrinsic Evidence</u></p> <p>None</p>	
4	"subset of the images"	'219 Patent Claims 1 and 3	less than all of the images of a video program		
5	"information including a subset of the images"	'219 Patent Claims 1 and 3		<p>No construction necessary (plain language)</p> <p>But if the court finds this term requires construction, then it should be construed as follows:</p> <p>information including less than all of</p>	<p>video guide and indexing data and less than all of the images of a video program</p> <p><u>Intrinsic Evidence</u></p>

No.	Term or Claim Element	Associated Claim(s)	Parties' Agreed Construction	Plaintiff's Proposed Construction	Defendant's Proposed Construction
				<p>the images of a video program</p> <p><u>Intrinsic Evidence</u></p> <p><u>Specification:</u> Col. 1, lns 50-58</p> <p><u>File History:</u> January 5, 1999 BPAI Examiner's Answer at 6,8,9</p> <p>October 13, 1998 Appellant's Appeal Brief at Appendix</p> <p>May 1, 1997 Office Action/Non-Final Rejection at 10</p> <p><u>Extrinsic Evidence</u></p> <p>None</p>	<p><u>Specification</u></p> <p>1:44-49</p> <p>'219 File History, Appeal Brief dated October 13, 1998 at pp. 7-8.</p> <p>'219 Reexamination, June 28, 2011, NIRC, at p. 3.</p>
6	"segments of the program which are separated in time"	'219 Patent Claims 1 and 3		<p>series of images selected from different time periods of the video program</p> <p><u>'219 PATENT Intrinsic Evidence</u></p> <p><u>Specification:</u> Col. 1, ln 58-61 Col. 2, lns 27-32, 40-45</p> <p><u>File History:</u> March 28, 2002 BPAI Decision on</p>	<p>respective series of images selected from different time periods of the video program</p> <p><u>Specification</u></p> <p>Abstract; 2:16-20; 2:33-40; 2:40-47; 2:48-53.</p>

No.	Term or Claim Element	Associated Claim(s)	Parties' Agreed Construction	Plaintiff's Proposed Construction	Defendant's Proposed Construction
				<p>Appeal at 2,4</p> <p>October 13, 1998 Appellant's Appeal Brief at 3, Appendix</p> <p>September 8, 1997 Applicant's Response to May 1, 1997 Office Action/Non-Final Rejection at 5</p> <p>May 1, 1997 Office Action/Non-Final Rejection at 3</p> <p>February 18, 1997 Applicant's Response to November 14, 1996 Office Action at 1,3,9</p> <p><u>Extrinsic Evidence</u> None</p>	
7	"windows"	<p>'219 Patent Claims 1 and 3</p> <p>'239 Patent Claim 4</p>		<p>No construction necessary (plain language)</p> <p>But if the court finds this term requires construction, then it should be construed as follows:</p> <p>viewing areas</p> <p><u>'219 PATENT Intrinsic Evidence Specification:</u></p>	<p>scrollable viewing areas on a screen capable of displaying motion imagery</p> <p>The Computer Glossary, 7th Edition, Alan Freedman, amacom, 1995</p> <p><u>'219 Patent Intrinsic Evidence Specification:</u></p>

No.	Term or Claim Element	Associated Claim(s)	Parties' Agreed Construction	Plaintiff's Proposed Construction	Defendant's Proposed Construction
				<p>Abstract Col. 1, ln 59-65 Col. 2, lns 40-50 Col. 3, lns 12-29, 47-56, 60-67 Col. 4, ln 54-58, 65-67 Col. 7, ln 38-43 Col. 9, ln 66-70 Col. 10, ln 53-70 Col. 11, lns 2-6, 13-26</p> <p><u>File History:</u> March 28, 2002 BPAI Decision on Appeal at 2,3,7</p> <p>January 5, 1999 BPAI Examiner's Answer at 9,10,11,12,13,14,15</p> <p>October 13, 1998 Appellant's Appeal Brief at 3,4,6,10,14, Appendix</p> <p>April 13, 1998 Applicant's Response to January 8, 1998 Office Action/Non-Final Rejection at 1,2</p> <p>January 8, 1998 Office Action/Non-Final Rejection at 8,9</p> <p>September 8, 1997 Applicant's Response to May 1, 1997 Office</p>	<p>Abstract; 2:41-51; 3:12-16</p> <p><u>'239 Patent</u></p> <p><u>Intrinsic Evidence</u></p> <p><u>Specification:</u> Abstract; 2:48-53; 3:19-23</p>

No.	Term or Claim Element	Associated Claim(s)	Parties' Agreed Construction	Plaintiff's Proposed Construction	Defendant's Proposed Construction
				<p>Action/Non-Final Rejection at 3,5,6</p> <p>February 18, 1997 Applicant's Response to November 14, 1996 Office Action at 1,6,7</p> <p>November 14, 1996 Office Action/Non-Final Rejection at 5</p> <p><u>Extrinsic Evidence</u> None</p> <p><u>'239 PATENT</u> <u>Intrinsic Evidence</u> <u>Specification:</u> Abstract Col. 2, lns 3-5, 48-58 Col. 3, lns 19-36, 53-58 Col. 4, lns 1-7, 55-60 Col. 5, lns 1-5 Col. 7, lns 38-42 Col. 11, lns 1-8, 14-27</p> <p><u>File History:</u> January 5, 2012 Applicant's Response to September 6, 2011 Office Action/Non-Final Rejection at 2,3,4,5,6,7,9,10 September 6, 2011 Office</p>	

No.	Term or Claim Element	Associated Claim(s)	Parties' Agreed Construction	Plaintiff's Proposed Construction	Defendant's Proposed Construction
				<p>Action/Non-Final Rejection at 3,4,5,6,7</p> <p>June 9, 2011 Applicant's Response to February 17, 2011 Office Action/Non-Final Rejection at 2,3,4,5,6,7,8,9</p> <p>February 17, 2011 Office Action/Non-Final Rejection at 3,4,5,6,7</p> <p>December 6, 2010 Applicant's Response to August 5, 2010 Office Action/Non-Final Rejection at 2,3,4,5,6,8,9,10</p> <p>August 5, 2010 Office Action/Non-Final Rejection at 3,4,5,6,7,9,10,11,12</p> <p>May 7, 2010 Applicant's Response to January 22, 2010 Office Action/Non-Final Rejection at 3,4,5,6,7,8,9,10,13,14,15</p> <p>January 22, 2010 Office Action/Non-Final Rejection at 2,4,5,6,7,8,9,11</p> <p>October 9, 2009 Applicant's Response to June 9, 2009 Office Action/Non-Final Rejection at 2,4,5,6,7,8,9,11,13</p>	

No.	Term or Claim Element	Associated Claim(s)	Parties' Agreed Construction	Plaintiff's Proposed Construction	Defendant's Proposed Construction
				<p>June 9, 2009 Office Action/Non-Final Rejection at 2,3</p> <p>March 18, 2009 Applicant's Response to December 23, 2008 Office Action/Non-Final Rejection at 2,3,4,5,6,8,9,10,11,12</p> <p>December 23, 2008 Office Action/Non-Final Rejection at 4</p> <p>August 29, 2008 Applicant's Response to May 1, 2008 Office Action/Non-Final Rejection at 2,4,6,7</p> <p>May 1, 2008 Office Action/Non-Final Rejection at 4</p> <p>February 4, 2008 Applicant's Appeal Brief at 2,5,6</p> <p>October 1, 2007 Office Action/Final Rejection at 2,3,5</p> <p>July 23, 2007 Applicant's Response to February 23, 2007 Office Action/Non-Final Rejection at 2,3</p>	

No.	Term or Claim Element	Associated Claim(s)	Parties' Agreed Construction	Plaintiff's Proposed Construction	Defendant's Proposed Construction
				<p>February 23, 2007 Office Action/Non-Final Rejection at 2,3,4</p> <p>April 16, 2003 Utility Patent Application Transmittal at 2,3,4,5,6,7,11,15,16,17,20,21,23</p> <p><u>Extrinsic Evidence</u> None</p>	
8	"motion imagery"	<p>'219 Patent Claims 1 and 3</p> <p>'239 Patent Claim 4</p>		<p>sequential motion images as opposed to still images</p> <p><u>'219 PATENT Intrinsic Evidence</u> <u>Specification:</u> Col. 10, lns 29 and 67 Col. 11, ln 5</p> <p><u>File History:</u> March 28, 2002 BPAI Decision on Appeal at 3,4</p> <p>October 13, 1998 Appellant's Appeal Brief at Appendix</p> <p><u>Extrinsic Evidence</u> None</p> <p><u>'239 PATENT Intrinsic Evidence</u></p>	<p>a few seconds or more of time-sequential motion images as opposed to still images</p> <p>'219 Amendment and Remarks in Response to Office Action Dated February 7, 2011 at p. 9.</p> <p>'219 Reexamination, Patent Owner Statement of the Interview Under 37 C.F.R. § 1.560 at p. 2.</p> <p>Reexamination, 1/28/2011, NIRC.</p> <p><u>'219 Patent Intrinsic Evidence</u> <u>Specification:</u> Abstract; 1:50-58; 2:41-51; 10:27-43</p> <p><u>'239 Patent</u></p>

No.	Term or Claim Element	Associated Claim(s)	Parties' Agreed Construction	Plaintiff's Proposed Construction	Defendant's Proposed Construction
				<p><u>Specification:</u> Col. 11, lns 1-8 and 19-27</p> <p><u>File History:</u> January 5, 2012 Applicant's Response to September 6, 2011 Office Action/Non-Final Rejection at 2,3,4,5,6,7,9,10,11</p> <p>September 6, 2011 Office Action/Non-Final Rejection at 2,3,4,5,6,7</p> <p>June 9, 2011 Applicant's Response to February 17, 2011 Office Action/Non-Final Rejection at 2,3,4,5,7,8,9</p> <p>February 17, 2011 Office Action/Non-Final Rejection at 2,3,4,5,6,7</p> <p>December 6, 2010 Applicant's Response to August 5, 2010 Office Action/Non-Final Rejection at 2,3,4,5,6,8,9,10</p> <p>August 5, 2010 Office Action/Non-Final Rejection at 2,5,6,9,10,11,12</p> <p>May 7, 2010 Applicant's Response to</p>	<p><u>Intrinsic Evidence</u></p> <p><u>Specification:</u> Abstract; 1:59-67; 2:48-53; 10:28-44</p>

No.	Term or Claim Element	Associated Claim(s)	Parties' Agreed Construction	Plaintiff's Proposed Construction	Defendant's Proposed Construction
				<p>January 22, 2010 Office Action/Non-Final Rejection at 2,5,6,7,8,9,10,15</p> <p>January 22, 2010 Office Action/Non-Final Rejection at 4,7</p> <p>October 9, 2009 Applicant's Response to June 9, 2009 Office Action/Non-Final Rejection at 3,7</p> <p>June 9, 2009 Office Action/Non-Final Rejection at 2,8,11,12</p> <p>March 18, 2009 Applicant's Response to December 23, 2008 Office Action/Non-Final Rejection at 2,3,4,5,6,8,9,10,11,12</p> <p>December 23, 2008 Office Action/Non-Final Rejection at 4</p> <p>October 1, 2007 Office Action/Final Rejection at 2,4</p> <p>February 23, 2007 Office Action/Non-Final Rejection at 2,4</p> <p>April 16, 2003 Utility Patent Application Transmittal at 16,17</p>	

No.	Term or Claim Element	Associated Claim(s)	Parties' Agreed Construction	Plaintiff's Proposed Construction	Defendant's Proposed Construction
				<u>Extrinsic Evidence</u> None	
9	"user-selecting a displayed image"	'219 Patent Claims 1 and 3	selecting, by a person, a displayed image	<p>No construction necessary (plain language)</p> <p>But if the court finds this term requires construction, then it should be construed as follows:</p> <p>Selecting, by a person, a person using an electronic device, an electronic device, or electronic devices, a displayed image.</p> <p><u>Intrinsic Evidence</u> None</p> <p><u>Extrinsic Evidence</u></p> <p>The following cases support the argument that the term should be given its plain meaning:</p> <p><i>Orion IP, LLC v. Mercedes-Benz USA, LLC</i>, No. 6:05-cv-322 (E.D. Tex. April 10, 2007)</p> <p><i>Clear With Computers, LLC v. Hyundai Motor America, Inc.</i>, No. 6:09-cv-479 (E.D. Tex. Jan. 5, 2011)</p> <p><i>Linksmart Wireless Technology, LLC</i></p>	<p>selecting, by a person, a displayed image</p> <p>Abstract, 1:61-2:3; and 7:43-52;</p>

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				<p><i>v. T-Mobile USA, Inc.</i>, No. 2:08-cv-264 (E.D. Tex. June 30, 2010)</p> <p>The following case supports Plaintiff's alternative construction of the term:</p> <p><i>Cf. z4 Technologies, Inc. v. Microsoft Corp.</i>, No. 6:06-cv-142 (E.D. Tex. April 12, 2006)</p>	
10	"segment including motion imagery"	'219 Patent Claims 1 and 3		<p>series of sequential motion images of the video program</p> <p><u>Intrinsic Evidence</u> <u>Specification:</u> Col. 1, lns 58-61 Col. 2, lns 27-32, 40-45</p> <p><u>File History:</u> March 28, 2002 BPAI Decision on Appeal at 2,4</p> <p>October 13, 1998 Appellant's Appeal Brief at 6, Appendix</p> <p><u>Extrinsic Evidence</u> None</p>	<p>series of time-sequential motion images of the video program</p> <p><u>Intrinsic Evidence</u> <u>Specification:</u> Abstract; 1:50-55; 2:28-34; 10:53-58</p> <p>'219 Reexamination, Amendment and Remarks in Response to Office Action Dated February 7, 2011 at p. 9.</p> <p>'219 Reexamination, Patent Owner Statement of the Interview Under 37</p>

No.	Term or Claim Element	Associated Claim(s)	Parties' Agreed Construction	Plaintiff's Proposed Construction	Defendant's Proposed Construction
					C.F.R. § 1.560 at p. 2.
11	"recorded program"	'219 Patent Claim 3		<p>No construction necessary (plain language)</p> <p>But if the court finds this term requires construction, then it should be construed as follows:</p> <p>a sequential set of images that have been captured and stored</p> <p><u>Intrinsic Evidence Specification:</u> Abstract Col. 1, lns 35-38 and 44-49 Col. 2, lns 27-32 Col. 2, ln 67 to Col. 3, ln 29 Col. 5, lns 2-8 Col. 9, lns 13-19 Col. 10, lns 13-30</p> <p><u>File History:</u> January 5, 1999 BPAI Examiner's Answer at 6,7,11,14</p> <p>October 13, 1998 Appellant's Appeal Brief at 3,6,7,12,14,15, Appendix</p> <p>January 8, 1998 Office Action/Non-Final Rejection at 5</p>	<p>series of time-sequential motion images that have been captured and stored in a storage medium</p> <p><u>Intrinsic Evidence Specification:</u> Abstract; 1:6-10; 1:40-43; 2:23-33; 3:1-6; 3:47-52; 3:56-60</p>

No.	Term or Claim Element	Associated Claim(s)	Parties' Agreed Construction	Plaintiff's Proposed Construction	Defendant's Proposed Construction
				<p>September 8, 1997 Applicant's Response to May 1, 1997 Office Action/Non-Final Rejection at 7</p> <p>February 18, 1997 Applicant's Response to November 14, 1996 Office Action at 4</p> <p>November 14, 1996 Office Action/Non-Final Rejection at 3</p> <p><u>Extrinsic Evidence</u> None</p>	
12	"storing"	'239 Patent Claim 4		<p>saving to a medium</p> <p><u>Intrinsic Evidence</u> <u>Specification:</u> Col. 3, lns 6-12, 13-19</p> <p><u>File History:</u> September 6, 2011 Office Action, Non-Final Rejection at 2, 3, 4, 5, 6</p> <p>Response to Office Action of February 17, 2011 at 8</p> <p>February 17, 2011 Office Action, Non-Final Rejection at 2, 3, 4, 5</p>	<p>saving to a storage medium</p> <p>1:53-58; 3:13-19; 4:7-13; 5:6-8; 6:32-35; and 7:31-38.</p>

No.	Term or Claim Element	Associated Claim(s)	Parties' Agreed Construction	Plaintiff's Proposed Construction	Defendant's Proposed Construction
				August 5, 2010 Office Action, Non-Final Rejection at 2, 3, 5, 6, 7, 9, 10 <u>Extrinsic Evidence</u> None	
13	"time-sequential frames representative of motion imagery"	'239 Patent Claim 4		time-sequential pictures representative of sequential motion images <u>Intrinsic Evidence</u> <u>Specification:</u> Col. 4, lns 55-60 Fig. 1 Fig. 2 <u>File History:</u> January 5, 2012 Applicant's Response to September 6, 2011 Office Action/Non-Final Rejection at 2,4,5,6,7 September 6, 2011 Office Action/Non-Final Rejection at 2,4,5,6 June 9, 2011 Applicant's Response to February 17, 2011 Office Action/Non-Final Rejection at 2,4,5 February 17, 2011 Office Action/Non-Final Rejection at 2,4,5,6 December 6, 2010 Applicant's Response to August 5, 2010 Office	No construction necessary.

No.	Term or Claim Element	Associated Claim(s)	Parties' Agreed Construction	Plaintiff's Proposed Construction	Defendant's Proposed Construction
				<p>Action/Non-Final Rejection at 2,3,4,5,6</p> <p>August 5, 2010 Office Action/Non-Final Rejection at 2,3,5,6,9,10</p> <p>May 7, 2010 Applicant's Response to January 22, 2010 Office Action/Non-Final Rejection at 2,3,5,6,7,8,9</p> <p>January 22, 2010 Office Action/Non-Final Rejection at 4,7,11</p> <p>October 9, 2009 Applicant's Response to June 9, 2009 Office Action/Non-Final Rejection at 2,3,4,7</p> <p>June 9, 2009 Office Action/Non-Final Rejection at 2</p> <p>March 18, 2009 Applicant's Response to December 23, 2008 Office Action/Non-Final Rejection at 2,3,4,5,6,8,11,12</p> <p>December 23, 2008 Office Action/Non-Final Rejection at 4</p> <p>August 29, 2008 Applicant's Response to May 1, 2008 Office Action/Non-Final Rejection at 2,3,5,6,7</p> <p>February 4, 2008 Appellant's Appeal</p>	

No.	Term or Claim Element	Associated Claim(s)	Parties' Agreed Construction	Plaintiff's Proposed Construction	Defendant's Proposed Construction
				<p>Brief at 2,6</p> <p>October 1, 2007 Office Action/Final Rejection at 2,4</p> <p>July 23, 2007 Response to February 23, 2007 Office Action/Non-Final Rejection at 2,3</p> <p>February 23, 2007 Office Action/Non-Final Rejection at 2,4</p> <p>April 16, 2003 Utility Patent Application Transmittal at 2,3,4,20,21</p> <p><u>Extrinsic Evidence</u></p> <p>None</p>	
14	"subset of the frames"	'239 Patent Claim 4		<p>less than all of the pictures of the video program</p> <p><u>Intrinsic Evidence</u></p> <p><u>Specification:</u></p> <p>Col. 1, lns 59-63</p> <p><u>File History:</u></p> <p>January 5, 2012 Applicant's Response to September 6, 2011 Office Action/Non-Final Rejection at 2,3,4,5,6,7,9</p> <p>September 6, 2011 Office Action/Non-Final Rejection at 2,3,5</p>	<p>less than all of the frames of the video program</p> <p>1:59-64 and 2:9-12.</p>

No.	Term or Claim Element	Associated Claim(s)	Parties' Agreed Construction	Plaintiff's Proposed Construction	Defendant's Proposed Construction
				<p>June 9, 2011 Applicant's Response to February 17, 2011 Office Action/Non-Final Rejection at 2,3,4,5,7,8</p> <p>February 17, 2011 Office Action/Non-Final Rejection at 2,3,5,6</p> <p>December 6, 2010 Applicant's Response to August 5, 2010 Office Action/Non-Final Rejection at 2,3,4,5,6,9</p> <p>August 5, 2010 Office Action/Non-Final Rejection at 2,3,5,6,7,8,9,10</p> <p>May 7, 2010 Applicant's Response to January 22, 2010 Office Action/Non-Final Rejection at 2,3,5,6,7,8,9,12,15</p> <p>October 9, 2009 Applicant's Response to June 9, 2009 Office Action/Non-Final Rejection at 2,3,4,5,6,7,8,9,14</p> <p>June 9, 2009 Office Action/Non-Final Rejection at 2,3,4</p> <p>March 18, 2009 Applicant's Response to December 23, 2008 Office Action/Non-Final Rejection at 2,3,4,5,6,8,9,10,11</p> <p>December 23, 2008 Office Action/Non-Final Rejection at 4,5,6</p> <p>August 29, 2008 Applicant's</p>	

No.	Term or Claim Element	Associated Claim(s)	Parties' Agreed Construction	Plaintiff's Proposed Construction	Defendant's Proposed Construction
				<p>Response to May 1, 2008 Office Action/Non-Final Rejection at 2,3,4,5,6,7</p> <p>May 1, 2008 Applicant's Response to February 4, 2008 Office Action/Non-Final Rejection at 2,3,5</p> <p>February 4, 2008 Appellant's Appeal Brief at 2,3,5,6,7</p> <p>October 1, 2007 Office Action/Final Rejection at 2,3,4,5,6</p> <p>July 23, 2007 Response to February 23, 2007 Office Action/Non-Final Rejection at 2,3,4,5</p> <p>February 23, 2007 Office Action/Non-Final Rejection at 2,3,4,5</p> <p>April 16, 2003 Utility Patent Application Transmittal at 20,21,22</p> <p><u>Extrinsic Evidence</u></p> <p>None</p>	
15	"segments of the video program that are spaced apart in time"	'239 Patent Claim 4		<p>series of images selected from different time periods of the video program</p> <p><u>Intrinsic Evidence</u></p> <p><u>Specification:</u></p> <p>Col. 1, ln 67 to Col. 2, ln 2</p>	<p>respective series of images selected from different time periods of the video program</p> <p>Abstract; 2:16-20; 2:33-40; 2:40-47; and 2:48-53.</p>

No.	Term or Claim Element	Associated Claim(s)	Parties' Agreed Construction	Plaintiff's Proposed Construction	Defendant's Proposed Construction
				<p>Col. 2 lns 34-47 Col. 12 lns 3-10 <u>File History:</u> January 5, 2012 Applicant's Response to September 6, 2011 Office Action/Non-Final Rejection at 2,3,4,6,7 September 6, 2011 Office Action/Non-Final Rejection at 2,3,5,7 June 9, 2011 Applicant's Response to February 17, 2011 Office Action/Non-Final Rejection at 2,3,4,5 February 17, 2011 Office Action/Non-Final Rejection at 4,5,6 December 6, 2010 Applicant's Response to August 5, 2010 Office Action/Non-Final Rejection at 3,4,5,9 August 5, 2010 Office Action/Non-Final Rejection at 5,6,9,10 May 7, 2010 Applicant's Response to January 22, 2010 Office Action/Non-Final Rejection at 5,8,9,13,15 January 22, 2010 Office Action/Non-Final Rejection at 7 October 9, 2009 Applicant's Response to June 9, 2009 Office Action/Non-</p>	

No.	Term or Claim Element	Associated Claim(s)	Parties' Agreed Construction	Plaintiff's Proposed Construction	Defendant's Proposed Construction
				<p>Final Rejection at 2,3,7</p> <p>June 9, 2009 Office Action/Non-Final Rejection at 2</p> <p>March 18, 2009 Applicant's Response to December 23, 2008 Office Action/Non-Final Rejection at 2,3,6,8,11</p> <p>December 23, 2008 Office Action/Non-Final Rejection at 4</p> <p>August 29, 2008 Applicant's Response to May 1, 2008 Office Action/Non-Final Rejection at 2,3,7</p> <p>February 4, 2008 Appellant's Appeal Brief at 2,4</p> <p>October 1, 2007 Office Action/Final Rejection at 2,4</p> <p>February 23, 2007 Office Action/Non-Final Rejection at 2,4</p> <p>April 16, 2003 Utility Patent Application Transmittal at 2,3,20,21</p> <p><u>Extrinsic Evidence</u></p> <p>None</p>	
16	"user"	'239 Patent Claim 4		<p>No construction necessary (plain language)</p> <p>But if the court finds this term</p>	the person that causes the steps of the program to be performed

No.	Term or Claim Element	Associated Claim(s)	Parties' Agreed Construction	Plaintiff's Proposed Construction	Defendant's Proposed Construction
				<p>requires construction, then it should be construed as follows:</p> <p>a person, a person using an electronic device, an electronic device, or electronic devices</p> <p><u>Intrinsic Evidence</u> <u>Specification:</u> Abstract Col. 1, lns 23-26, 30-33,42-45 Col. 3, lns 16-19 Col. 1, ln 1</p> <p><u>File History:</u> February 17, 2011 Office Action/Non-Final Rejection at 3,4,5,6,7</p> <p>August 5, 2010 Office Action/Non-Final Rejection at 9,11,12</p> <p>May 7, 2010 Applicant's Response to January 22, 2010 Office Action/Non-Final Rejection at 13,14</p> <p>January 22, 2010 Office Action/Non-Final Rejection at 2,7,9,10</p> <p>June 9, 2009 Office Action/Non-Final Rejection at 4,6</p>	<p><u>Intrinsic Evidence</u> <u>Specification:</u> Abstract; 1:15-19; 1:42-45</p>

No.	Term or Claim Element	Associated Claim(s)	Parties' Agreed Construction	Plaintiff's Proposed Construction	Defendant's Proposed Construction
				<p>May 1, 2008 Office Action/Non-Final Rejection at 5,6</p> <p>April 16, 2003 Utility Patent Application Transmittal at 1,2,4,23</p> <p><u>Extrinsic Evidence</u></p> <p>In the following cases, the term “user” was given its plain meaning:</p> <p><i>Orion IP, LLC v. Mercedes-Benz USA, LLC</i>, No. 6:05-cv-322 (E.D. Tex. April 10, 2007)</p> <p><i>Clear With Computers, LLC v. Hyundai Motor America, Inc.</i>, No. 6:09-cv-479 (E.D. Tex. Jan. 5, 2011)</p> <p><i>Linksmart Wireless Technology, LLC v. T-Mobile USA, Inc.</i>, No. 2:08-cv-264 (E.D. Tex. June 30, 2010)</p> <p>The following case supports Plaintiff's alternative construction of “user”:</p> <p><i>Cf. z4 Technologies, Inc. v. Microsoft Corp.</i>, No. 6:06-cv-142 (E.D. Tex. April 12, 2006)</p>	

No.	Term or Claim Element	Associated Claim(s)	Parties' Agreed Construction	Plaintiff's Proposed Construction	Defendant's Proposed Construction
17	"display device"	'239 Patent Claim 4		<p>device that allows a user to view the video program</p> <p><u>Intrinsic Evidence</u></p> <p><u>Specification:</u></p> <p>Col. 2, lns 3 and 33-47 Col. 3, lns 13-23 Col. 5, lns 53-59 Col. 9, lns 40-46 Col. 10, lns 12-23 Col. 11, lns 9-17</p> <p><u>File History:</u></p> <p>January 5, 2012 Applicant's Response to September 6, 2011 Office Action/Non-Final Rejection at 2,3,4,5,6,7,8,9,10</p> <p>September 6, 2011 Office Action/Non-Final Rejection at 3,4,5,6,7,8</p> <p>June 9, 2011 Applicant's Response to February 17, 2011 Office Action/Non-Final Rejection at 2,4,5,6,7,8,9</p> <p>February 17, 2011 Office Action/Non-Final Rejection at 3,4,5,6,7</p>	<p>television monitor, computer screen or other suitable device that allows a user to view the video program</p> <p>2:33-34</p>

No.	Term or Claim Element	Associated Claim(s)	Parties' Agreed Construction	Plaintiff's Proposed Construction	Defendant's Proposed Construction
				<p>December 6, 2010 Applicant's Response to August 5, 2010 Office Action/Non-Final Rejection at 3,4,5,6,7,8,9,10</p> <p>August 5, 2010 Office Action/Non-Final Rejection at 3,4,5,6,7,8,9,10,12</p> <p>May 7, 2010 Applicant's Response to January 22, 2010 Office Action/Non-Final Rejection at 2,3,4,5,6,7,8,9,12,13,15</p> <p>January 22, 2010 Office Action/Non-Final Rejection at 2,4,5,6,7,8,9,10,</p> <p>October 9, 2009 Applicant's Response to June 9, 2009 Office Action/Non-Final Rejection at 2,3,4,5,7,8,9,11,13,14,16</p> <p>June 9, 2009 Office Action/Non-Final Rejection at 2,4,5</p> <p>March 18, 2009 Applicant's Response to December 23, 2008 Office Action/Non-Final Rejection at 2,3,4,5,6,8,9,10,11,12</p>	

No.	Term or Claim Element	Associated Claim(s)	Parties' Agreed Construction	Plaintiff's Proposed Construction	Defendant's Proposed Construction
				<p>December 23, 2008 Office Action/Non-Final Rejection at 4,6</p> <p>August 29, 2008 Applicant's Response to May 1, 2008 Office Action/Non-Final Rejection at 2,4,6,7</p> <p>May 1, 2008 Office Action/Non-Final Rejection at 4</p> <p>February 4, 2008 Appellant's Appeal Brief at 2,5,6</p> <p>October 1, 2007 Office Action/Final Rejection at 2,5</p> <p>July 23, 2007 Response to February 23, 2007 Office Action/Non-Final Rejection at 2,3</p> <p>February 23, 2007 Office Action/Non-Final Rejection at 2,4</p> <p>April 16, 2003 Utility Patent Application Transmittal at 2,3,4,12,15,16,17,18,20,21</p> <p><u>Extrinsic Evidence</u> None</p>	